HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

Writ Petition No.10606 of 2000

Between:

G. Narayanaswamy

… Petitioner

And

A.P. Power Transmission Corporation,
Rep. by its Director, Vidyut Soudha,
Hyderabad and others.

… Respondents

:: ORDER::

Counsel for Petitioner: Shri B. Venkata Ramana with Shri V. Venkata Ramana, Advocate

Counsel for Respondent Nos. 1 & 2: Shri Samineni Kishore

February 14, 2007

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In this petition, the petitioner has prayed for quashing communication dated 18-1-1999 vide which Superintending Engineer, Operation Circle, Anantapur (respondent No.2) rejected his candidature for appointment as Lineman in the services of the erstwhile Andhra Pradesh State Electricity Board (for short, 'the Board').

The petitioner claims to have worked as Village Electricity Worker in Chamaluru village, Narpala Mandal, Anantapur District from 30-5-1989. He filed Writ Petition No.27741 of 1997 for issue of a mandamus to the respondents to consider his case for regular appointment as Junior Lineman in terms of B.P.Ms. No.36, dated 18-5-1997. The same was disposed of by the learned Single Judge on 24-10-1997 with a direction to the respondents to consider his case for regular appointment on the post of Lineman. In compliance of the Court's order, respondent No.2 considered the petitioner's candidature but declined to appoint him on the premise that he was not on the rolls on
18-5-1997.

The petitioner has questioned the rejection of his candidature primarily on the ground that the policy framed by the Board does not envisage consideration of the candidature of only those who were on the rolls on 18-5-1997.

Although the counter-affidavit has not been filed, I do not consider it proper to defer the adjudication of the writ petition because the same has been pending for last more than six years.

I have heard learned counsel for the parties and perused the

record. The solitary reason assigned by respondent No.2 for refusing to consider the petitioner's candidature is legally untenable because the policy framed by the Board does not envisage consideration of the candidature of only those who were on the rolls on 18.05.1997. If this was the intention of the Board, then there was no occasion to treat ex-casual labourers eligible for appointment in the regular establishment of the Board.

In view of the above conclusion, I may have invalidated the impugned communication and directed the respondents to re-consider the petitioner's claim for appointment as Junior Lineman, but keeping in view the fact that he does not possess the qualifications prescribed for that post, I do not propose to remit the case for fresh consideration of his case.

There is no dispute between the parties that the persons possessing the requisite qualification could only be considered for appointment in terms of the policy contained in B.P.Ms.No.36, dated 18.05.1997. This is evinced from paragraph 5 (a) and (b) of B.P.Ms.No.36, which are extracted below:

> "5. The guidelines for selection of the candidates from the above categories shall be as follows:
> a) Age: Age shall be reckoned as per Board's service regulations in force at the time of their first engagement. There shall be no relaxation of age.
> b) Educational Qualifications:- Educational qualifications shall be as per Board's service regulations in force at the time of their first engagement. There shall be no relaxation of educational qualifications or other relevant technical qualifications, which are prescribed in the service regulations for such appointment."

Although the service regulations framed by the Board under Section 79(c) of the Electricity (Supply) Act, 1948 do not specify the qualifications for the post of Lineman, the same will be

deemed to have been prescribed vide B.P.Ms.No.1048, dated 23-9-1989 read with Memo No.DP/DM-1/A2/762/94-1, dated 23.10.1994. For the sake of reference, the relevant portions of B.P.Ms.No.1048, dated 23.09.1989 and Memo dated 23.10.1994 are reproduced below:

"**B.P.Ms.No. 1048:**

Proceedings:

As per the existing O.S.S. Non-Statutory Rules the following are the qualifications prescribed for the post of Helper.

i) Ability to read and write.

ii) One year practical experience either in O&M/Construction works.

The above qualifications were prescribed in the year 1958 and continued as such till to date. But the time of prescribing the above qualifications there were no qualified candidates. But, in view of the above circumstances, several persons with academic qualifications and technical qualifications are available now. It is therefore considered desirable to prescribe higher qualifications for direct recruitment of Helpers.

The A.P. State Electricity Board after careful consideration prescribes the following qualifications for the post of Helpers.

i) A pass in SSLC/SSC/10th class;

ii) A pass in ITI preferably with Electrician Trade or

iii) Vocational course in Electrical trade.

These orders will come into effect from the date of issue."

Memo No.DP/DM-1/A2/762/94-1:

The issue regarding re-designation of Helper is under consideration of the Board since long back.

2. After careful consideration the APSE Board directs that posts of 'Helper' in O&M/Construction establishment shall be redesignated as indicated below:

i) 'Junior Lineman' – in Operation circles/TLC/Construction circles etc;

ii) 'Junior Plant Attendent' – in Generating Stations/Projects.

3. However there shall be no change in functions and duties, service conditions etc; and these orders are only mere redesignation of the posts.

4. These orders shall come into force with immediate effect."

The petitioner has not challenged the vires of B.P.Ms.No.1048, dated 23-9-1989 or Memo dated 23-10-1994. Therefore, his eligibility to be appointed as Junior Lineman will have to be determined with reference to the above reproduced qualifications.

It is neither the pleaded case of the petitioner nor any material has been produced before the Court to show that he has passed ITI in Electrician trade or undergone vocational training in the said trade. Therefore, even though the petitioner possesses the academic qualification prescribed for the post of Lineman, he cannot be considered for appointment on that post.

For the reasons stated above, the writ petition is dismissed. The parties are left to bear their own costs.

G.S. SINGHVI, CJ

February 14, 2007

svs